

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 4:17-CV-40011-TSH
)	
v.)	Judge Timothy S. Hillman
)	
DAVID L. TOPPIN,)	
JENNIFER TOPPIN,)	
DEUTSCHE BANK NATIONAL TRUST)	
COMPANY as Trustee for RESIDENTIAL)	
ASSET SECURITIZATION TRUST Series)	
2013-A14, MORTGAGE PASS-THROUGH)	
CERTIFICATES Series 2003-N,)	
UPS CAPITAL BUSINESS CREDIT f/k/a)	
FIRST INTERNATIONAL BANK,)	
COMMONWEALTH OF MASSACHUSETTS,)	
TOWN OF HOLDEN,)	
TOWN OF AMHERST, and)	
TOWN OF GARDNER)	
)	
Defendants.)	

Agreed Motion to Extend the Answer Deadline

The Plaintiff United States, by and through the undersigned counsel, hereby files this agreed motion regarding the defendant Town of Holden, by and through its undersigned counsel, wherein it is agreed that the defendant Town of Holden's answer or other responsive pleading shall be due on or before June 30, 2017. The parties respectfully move this Court for an order in conformance with this agreed motion. The Town of Holden's agreement with the United States regarding this extension of time is annexed hereto as Exhibit A. On April 28, 2017, the defendant Town of Holden, by and through its counsel, contacted the undersigned counsel for the United States and stated that based off of the records currently in the town's possession, the defendants David L. Toppin and/or Jennifer Toppin do not currently owe delinquent property

taxes to the Town of Holden. As a result, the Town of Holden does not currently have an interest in the property located at 465 Salisbury Street, Holden, Massachusetts, that is one of the subject properties in this litigation and which is described more fully in the amended complaint [Docket No. 5]. It is nevertheless the United States' position that the Town of Holden should not be dismissed because property owners such as the defendants David L. Toppin and/or Jennifer Toppin frequently do not pay property taxes after a lien enforcement action is brought by the United States if they do not have equity to protect and any future property tax lien from a party such as the Town of Holden would have priority. The United States maintains that this Court has exclusive jurisdiction over the subject property in Holden, Massachusetts, during the pendency of this action to enforce federal tax liens and, accordingly, the Town of Holden should remain a party in order to protect its potential future interest in the subject property.

Notwithstanding the fact that the Town of Holden has already been personally served with the summons and amended complaint in this action, the plaintiff United States agreed to extend the time within which the Town of Holden could file an answer to the amended complaint, or other responsive pleading, to sixty days as if the Town of Holden had waived service under Fed. R. Civ. P. 4(d). This additional time will allow the parties to further ascertain what interest, if any, the Town of Holden has in the subject property, and what the proper posture is for the Town of Holden regarding this litigation going forward. If it is confirmed that the Town of Holden has no current right, title, claim, lien, or interest in the subject property, the parties represent that they will stipulate to this effect and, further, will stipulate that the Town of Holden is not required to participate in this litigation, unless the defendants David L. Toppin and/or Jennifer Toppin accrue future property tax liabilities to the Town of Holden. If this situation arises, the Town of Holden will promptly notify the Court and counsel for the United

States, so that the Town of Holden's interest may be adequately protected.

WHEREFORE, the parties request that the Court extend the defendant Town of Holden's deadline for responding to the amended complaint up to and including June 30, 2017.

Dated: May 17, 2017

Respectfully submitted,

DAVID A. HUBBERT
Acting Assistant Attorney General
U.S. Department of Justice, Tax Division

/s/ Jeffrey N. Nunez
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/s/ Patricia L. Davidson (with consent)
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CERTIFICATE OF SERVICE

I, Jeffrey N. Nunez, pursuant to D. Mass. Civ. L.R. 5.2(b), hereby certify that on this 17th day of May, 2017, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all registered participants.

A copy of the foregoing document was also served upon the following party who is not a registered CM/ECF participant, via First Class United States mail:

David L. Toppin
465 Salisbury St.
Holden, MA 01520

/s/ Jeffrey N. Nunez
JEFFREY N. NUNEZ
Trial Attorney, Tax Division
U.S. Department of Justice